IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

GANEDEN BIOTECH, INC., Plaintiff, v. **WYLDER COFFEE CO, LLC,** Defendant.	Case No.: 1:17-cv-940 **COMPLAINT** **DEMAND FOR JURY TRIAL**

Plaintiff Ganeden Biotech, Inc. ("Ganeden"), for its complaint against Defendant Wylder Coffee Co, LLC ("Wylder"), states as follows:

SUMMARY AND NATURE OF THE ACTION

1. This is an action for patent infringement. Ganeden owns a patent for compositions that contain both coffee and the probiotic bacteria *Bacillus coagulans*, and Defendant Wylder sells coffee containing *Bacillus coagulans*, thereby infringing Ganeden's patent. Ganeden files this lawsuit to put an end to Defendant Wylder's infringement and to recover damages resulting from Defendant Wylder's misconduct.

PARTIES

2. Plaintiff Ganeden is probiotic ingredient manufacturer based in Mayfield Heights, Ohio.

3. Founded in 1997, Ganeden is at the forefront of probiotic research and product development with an extensive library of published studies and holds more than 100 patents and patent applications worldwide for probiotic technologies in the food, beverage, animal health, and personal care ingredients markets.

4. On information and belief, Defendant Wylder is a Nevada limited liability company with a principal place of business in Malibu, California.

JURISDICTION AND VENUE

5. This action arises under the patent laws of the United States, Title 35 of the United States Code, 35 U.S.C. § 271 et seq. Subject matter jurisdiction of this Court is conferred by 28 U.S.C. §§ 1331 and 1338.

6. Venue in this judicial district is proper under 28 U.S.C. § 1391(b), 28 U.S.C. § 1400(b), and LR 3.8.

7. This Court has personal jurisdiction over Defendant Wylder under the Ohio long-arm statute, Ohio Rev. Code § 2307.382, at least because, as pleaded more fully below, (i) Defendant Wylder, on information and belief, regularly does and solicits business, engages in other persistent courses of conduct, and derives substantial revenue from goods used or consumed or services rendered in Ohio and (ii) Ganeden's claims arise out of Defendant Wylder's (1) transacting business in Ohio, (2) causing tortious injury by acts in Ohio, and (3) causing tortious injury in Ohio.

PATENT-IN-SUIT

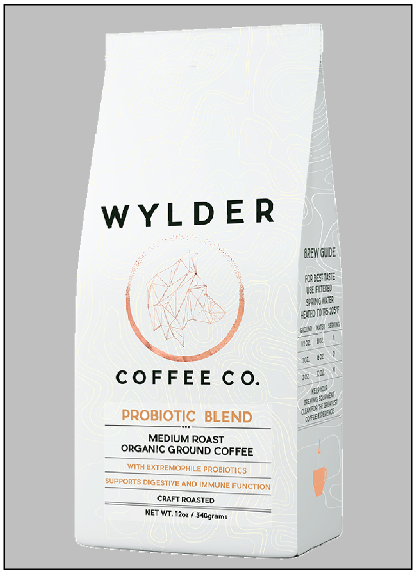
8. United States Patent No. 8,697,055 ("the '055 patent") is titled "Probiotic, Lactic Acid-Producing Bacteria" and was issued on April 15, 2014, based on an application filed March 19, 2012. Attached as Exhibit 1 is a copy of the '055 patent.

9. Ganeden is the owner of the '055 patent by assignment.

10. The '055 patent relates to certain compositions containing *Bacillus coagulans.* For example, claim 9 of the '055 patent recites: "A composition comprising an isolated *Bacillus coagulans* bacterium ***and coffee***." (Emphasis added.)

BACKGROUND FACTS

11. Defendant Wylder sells bags of ground coffee over the Internet. The only blend that Defendant Wylder sells online is the "Probiotic Blend" of ground coffee. Below is an image of the product from the company's website:


WYLDER
COFFEE CO.
PROBIOTIC BLEND
MEDIUM ROAST
ORGANIC GROUND COFFEE
WITH EXTREMOPHILE PROBIOTICS
SUPPORTS DIGESTIVE AND IMMUNE FUNCTION
CRAFT ROASTED
NET WT. 12oz / 340grams
BREW GUIDE

12. Defendant Wylder has sold and delivered its Probiotic Blend ground coffee to residents in this judicial district.

13. According to Defendant Wylder's website, "[a]fter roasting, we combine the beans and our virtually tasteless extremophile probiotic into a single bag of the finest organic coffee." https://wyldercoffeeco.com/pages/our-story

14. Testing of the Probiotic Blend ground coffee reveals that it contains *Bacillus coagulans.*

FIRST CLAIM FOR RELIEF
(Infringement of U.S. Patent No. 8,697,055)

15. Ganeden repeats and incorporates by reference the allegations set forth in the foregoing paragraphs.

16. Defendant Wylder directly infringed one or more claims of the '055 patent, including claim 9, in violation of 35 U.S.C. § 271, at least by making, offering to sell, selling, and using within the United States the Probiotic Blend ground coffee, at least because it contained both *Bacillus coagulans* and coffee and thus all of the limitations of claim 9 of the '055 patent, i.e., "[a] composition comprising an isolated *Bacillus coagulans* bacterium and coffee."

17. Ganeden owned the '055 patent through the period of the infringing acts of Defendant Wylder, and Ganeden still owns the '055 patent.

18. Ganeden has been and continues to be damaged and otherwise harmed by Defendant Wylder's infringement.

19. Ganeden will be irreparably harmed unless Defendant Wylder's infringing activities are enjoined.

RELIEF REQUESTED

WHEREFORE, Ganeden prays for judgment and relief against Defendant Wylder, including:

(A) Adjudging that Defendant Wylder has infringed the '055 patent;

(B) Permanently enjoining Defendant Wylder, its officers, agents, suppliers, distributors, servants, employees, successors, assigns, and all persons acting in concert or participation with Defendant Wylder from continuing acts of infringement of the '055 patent;

(C) Adjudging that an accounting be had for damages caused by Defendant Wylder's infringement, together with pre-judgment and post-judgment interest; and

(D) Such other and further relief as this Court may deem just and proper.

Respectfully submitted,

/s/ John F. Bennett

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JURY DEMAND

Ganeden respectfully requests a trial by jury on all issues so triable in this action.

/s/ John F. Bennett
John F. Bennett